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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,408	06/23/2003	Garth H. Bulgrien	15138	7679
25542	7590	01/12/2005	EXAMINER	
CNH AMERICA LLC INTELLECTUAL PROPERTY LAW DEPARTMENT PO BOX 1895, M.S. 641 NEW HOLLAND, PA 17557			ESTREMSKY, SHERRY LYNN	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,408	BULGRIEN, GARTH H.	
	Examiner Sherry L Estremsky	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 November 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5,7-10 and 12-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 2,4,5,7-10 and 12-15 is/are allowed.
 6) Claim(s) 1 and 3 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 23 June 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

The receipt of the amendment dated November 4, 2004 of the application 10/601,408, including amendments to the specification and claims, and cancellation of claims 6 and 11, is acknowledged.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen, U. S. Patent 4,398,618.

Hansen shows in figure 1 a three position transmission shift control 10, including selector lever 12, including a forward position F, a neutral position N, and a reverse position R.

Switch 48, adapted to be manually actuatable by a driver dismounting from a seat (column 9, lines 29-34), is operable for actuating a park brake 6 (spring applied, hydraulic pressure released) when the control is in the neutral position (column 9, lines 21-34, noting that the cam follower 166 is part of the brake switch 48, as shown in fig. 8).

(claim 1)

The control is automatically operable for releasing the park brake 6 when moved from the neutral position to the forward or reverse position (F - column 9, lines 35-37 and 45-47; R - column 10, lines 1-3 and 8-10). Though Hansen discloses this as occurring specifically when the driver is sitting in the seat, column 9, lines 54-56 discloses that the control would not be placed in forward or reverse positions without the driver in the seat, since the control is automatically in the neutral position in that situation. Therefore, whenever the control is moved to the forward or reverse position, the park brake is released.

(claim 3)

Allowable Subject Matter

3. Claims 2, 4, 5, 7-10, and 12-15 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter:

No reference nor combination of references was found which teaches a transmission shift control having a three-position control shifter including a switch or button selectively operable for actuating a park brake when the transmission is in the neutral mode, wherein the transmission shift control also has an algorithm which commands the automatic release of the park brake when the shifter is moved from the neutral position to a forward or reverse position, as required by claim 8.

No reference nor combination of references was found which teaches a transmission shift control including a shifter that is adapted to be manipulated and that has a button operable for actuating a park brake or park lock when the shifter is in the neutral position, the control automatically operable for releasing the park brake or lock when the shifter is moved from the neutral position to a forward or reverse position, as required by claim 13.

Response to Arguments

5. Applicant's arguments regarding claims 1 and 3 filed November 4, 2004 have been fully considered but they are not persuasive. Hansen does disclose in column 9, lines 21-28 that the parking brake is released when the selector lever is in the neutral position, but lines 29-34 further explain that when the selector lever is in the neutral position and the driver dismounts from the seat, "the cam follower 166 moves to its upper position and the pump is turned off and the parking brake is applied". Hansen thus not only discloses that the switch 48, which includes cam follower 166, is operable for actuating a park brake when the control is in the neutral position, but also that the switch is manually actuatable, by the driver dismounting from the seat. Note that claim 1 does not require that the park brake be actuated when the control is in neutral, so the fact that Hansen discloses a situation in which the control is in neutral and the park brake is released does not prevent Hansen from meeting the limitations of the claim.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry L Estremsky whose telephone number is (703) 308-2164. The examiner can normally be reached on Tuesday and Friday from 7:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER
AU3681 1-7-05